National Labor Relations Board



Weekly Summary of NLRB Cases

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Biosource Landscaping Services, LLC (9-CA-43283, 43287; 352 NLRB No. 6) Xenia, OH Jan. 31, 2008. The Board affirmed the administrative law judge's findings that the Respondent violated Section 8(a)(1) of the Act by: (1) threatening employees with plant closure if the Union was voted in as their representative; (2) threatening employee Donald Combs with job loss for support; and (3) interrogating employee Matthew Liming about his union activities. The Board additionally affirmed that the Respondent did not violate Section 8(a)(1) by coercing its employees or Section 8(a)(3) by discharging employees Paul Brown and Matthew Liming. With respect to the discharges, the Board found that the Respondent met its burden of establishing that it would have taken the same action even in the absence of the employees' protected activities. [HTML] [PDF]

(Members Liebman and Schaumber participated.)

Charges filed by Individuals; complaint alleged violations of Section 8(a)(1) and (3). Hearing at Cincinnati, April 24 and 25, 2007. Adm. Law Judge Bruce D. Rosenstein issued his decision July 13, 2007.

Kingsbridge Heights Rehabilitation Care Center (2-CA-37660, 37898; 352 NLRB No. 5) Bronx, NY Jan. 31, 2008. The Board adopted the administrative law judge's decision and found that the Respondent violated Section 8(a)(1) of the Act by (1) engaging in the surveillance of its employees' union activities with video cameras; and (2) threatening to delay the reinstatement of employees if they engaged in a strike and made an unconditional offer to return to work. In adopting the judge's finding that the Respondent's May 9, 2006 statement to employees – that they would not be able to return to work for three weeks if they engaged in a three-day strike – was unlawful, the Board agreed with the judge that the Respondent's asserted business justification for the statement, that it had committed to hiring temporary replacement employees for three weeks, lacked merit. [HTML] [PDF]

(Members Liebman and Schaumber participated.)

Charge field by 1199 SEIU, United Health Care Workers East; complaint alleged violations of Section 8(a)(1). Hearing at New York on Feb. 21, 2007. Adm. Law Judge Mindy E. Landow issued her decision July 9, 2007.

Stage Employees IATSE Local 720 (AVW Audio Visual, Inc.) (28-CB-4351; 352 NLRB No. 7) Las Vegas, NV Jan. 31, 2008. The Board sua sponte sought remand of this case from the Ninth Circuit Court of Appeals to reconsider its denial of the Charging Party's request for review of a compliance determination. The Board reversed the compliance determination's finding that the Charging Party's backpay remedy for the Respondent's refusal to refer him from the exclusive hiring hall in violation of Section 8(b)(1)(A) and 8(b)(2) was limited to lost employment opportunities with named employer AVW Audiovisuals, Inc. The Board ordered the Respondent to make the Charging Party whole for lost employment opportunities with all signatory

employers, finding that the Charging Party was not procedurally barred from challenging the limitation on the backpay remedy and that the broader remedy was appropriate for the violations found. The Board remanded the case to the Regional Director for further action. [HTML] [PDF]

The Board in 2000 reversed the administrative law judge's finding that the Respondent had violated Section 8(b)(1)(A) and 8(b)(2) and dismissed the complaint. 332 NLRB 1. The Ninth Circuit Court of Appeals granted review (*Lucas v. NLRB*, 333 F.3d 297 (2003)), and on remand, the Board adopted the court's opinion as the law of the case and found that the Respondent had violated the Act. 341 NLRB 1267 (2004).

(Members Liebman and Schaumber participated.)

DECISION OF ADMINISTRATIVE LAW JUDGE

Lithographers Local One–L (The Metropolitan Lithographers Association, Inc.) New York, NY Jan. 29, 2008. 2-CB-21027; JD(NY)-01-08, Judge Mindy E. Landow.

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to Reports of Regional Directors or Hearing Officers)

DECISION AND DIRECTION OF SECOND ELECTION

Irby Construction Co., Inc., Indio and Brawley, CA, 21-RC-20985, Jan. 29, 2008 (Members Liebman and Schaumber)

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND CERTIFICATION OF REPRESENTATIVE

Fuel Systems, Inc., Chicago, IL, 13-RC-21667, Jan. 29, 2008 Kerry Inc., Tualatin, OR, 36-RC-6391, Jan. 29, 2008

DECISION AND ORDER [sustaining Employer's objection to election and dismissing petition]

Park Pictures, LLC, Santa Monica, CA, 31-RC-8652, Jan. 29, 2008

ORDER SEVERING [Case 31-RC-8649 from Case 31-RC-8650] AND APPROVING WITHDRAWAL [of exceptions in Case 32-RC-8649] and DECISION, ORDER [setting aside election held in Case 31-RC-8649] AND DIRECTION OF SECOND ELECTION

St. Mary Medical Center, Riverside, CA, 31-RC-8649, 8650, Jan. 29, 2008

DECISION AND ORDER [remanding proceeding to Regional Director for further appropriate action]

Allstate Power Vac, Inc., Brooklyn, NY, 29-RC-11505, Feb. 1, 2008

(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

3PD, Inc., Denver, CO, 27-RC-8505, Jan. 31, 2008 (Members Liebman and Schaumber)
